

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

UNITED STATES OF AMERICA

v.

BRADLEY TAYLOR.

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CRIMINAL NO. 2:08cr8 JRG-RSP

**REPORT AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

On April 9, 2015, the Court conducted a hearing to consider the government's petition to revoke the supervised release of Defendant. The government was represented by Jim Noble, Assistant United States Attorney for the Eastern District of Texas, and Defendant was represented by Ken Hawk.

On April 22, 2009, Defendant pled guilty before U.S. District Judge T. John Ward to the offense of Failure to Register; a Class C felony. This offense carried a statutory maximum imprisonment term of 10 years. The United States Sentencing Guideline range, based on a total offense level of 12 and a criminal history category of VI, was 30 to 37 months. Defendant was sentenced to 30 months of imprisonment, followed by a 5 year term of supervised release subject to the standard conditions of release, plus special conditions to include financial disclosure, drug treatment and testing, mental health treatment, sex offender treatment and testing paid for by the Defendant, and no contact with children under the age of 18 unless supervised by an adult approved by the probation officer. Defendant completed the term of imprisonment and began his period of supervised release on April 29, 2011. On January 13, 2014, Defendant's supervised release conditions were modified to include alcohol and intoxicant abstinence.

Under the terms of supervised release, Defendant was to refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other

controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician; abstain from the use of alcohol and all other intoxicants; and not have contact of any kind with children under the age of 18 unless supervised by an adult approved by the probation officer. In its petition, the government alleges that Defendant violated the terms of supervised release when he admitted to alcohol use for the past six months on October 11, 2011; submitted urine specimens that tested positive for marijuana on January 30, 2015 and February 26, 2015; admitted he had consumed alcohol prior to an unannounced home visit on March 25, 2014; and had unsupervised contact with a child under the age of 18 without an adult approved by the probation officer on or about March 25, 2014.

Based on 5th Circuit case law, the Court can find that illicit drug use constitutes possession. Therefore, should the Court find by a preponderance of the evidence that Defendant violated the conditions of supervised release by possessing marijuana, Defendant will be in violation of Texas Health and Safety Code §481.121 and be guilty of committing a Grade C violation. U.S.S.G. § 7B1.3(a)(1) indicates that upon a finding of a Grade C violation, the Court may revoke or extend a term of supervision and/or modify the conditions of supervision. U.S.S.G. § 7B1.3(a)(2).

Should the Court find by a preponderance of the evidence that Defendant violated the conditions of supervised release by using alcohol; submitted urine specimens that tested positive for marijuana on January 30, 2015 and February 26, 2015; had unsupervised contact with a child under the age of 18 without an adult approved by the probation officer; and his failure to abstain from alcohol, Defendant will have committed a Grade C violation. U.S.S.G. § 7B1.1(a). Upon a finding of a Grade C violation, the Court may revoke or extend a term of supervision and/or modify the conditions of supervision. U.S.S.G. § 7B1.3(a)(2). Considering Defendant's

criminal history category of VI, the Guideline imprisonment range for a Grade C violation is 8 to 14 months. U.S.S.G. § 7B1.4(a).

At the April 9, 2015 hearing, Defendant pled true to the allegations above. The government recommended that Defendant Bradley Taylor be committed to the custody of the Bureau of Prisons for 12 months and one day imprisonment with no supervised release to follow.

Pursuant to the Sentencing Reform Act of 1984, the Court **RECOMMENDS** that Defendant Bradley Taylor be committed to the custody of the Bureau of Prisons for 12 months and one day imprisonment at FCI Seagoville, Texas with no supervised release to follow. The Court further **RECOMMENDS** Defendant receives substance abuse and sex offender treatment while imprisoned.

Defendant has waived his right to object to the findings of the Magistrate Judge in this matter so the Court will present this Report and Recommendation to U.S. District Judge Rodney Gilstrap for adoption immediately upon issuance.

So ORDERED and SIGNED this 10th day of April, 2015.


JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE